

Notice of Allowability

Application No.

10/674,933

Examiner

Mary J. Steelman

Applicant(s)

NISTLER ET AL.

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/31/2007.
2. ☒ The allowed claim(s) is/are 1, 3-6, 8, 9, 11-21 (to be renumbered in order).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. This Office Action is in response to Remarks and Claim Amendments received 01/31/2007. Per Applicant's request, claims 1, 3, 4, 6, 9, 11-16, and 18-20 are amended. Claims 2, 7, and 10 are cancelled. Claims 1, 3-6, 8, 9, and 11-21 are pending.

Claim Objections

2. In view of amendments and applicant's comments, the prior claim objections are hereby withdrawn.

Claim Rejections - 35 USC § 112

3. In view of the amendments to claims 14 and 20, the prior 35 USC 112 rejections are hereby withdrawn.

Claim Rejections - 35 USC § 101

4. In view of the amendments to claims 11-15, the prior 35 USC 101 rejections are hereby withdrawn.

Allowable Subject Matter

5. Claims 1, 3-6, 8, 9, and 11-21 (to be renumbered in order) are allowed.
6. The following is an examiner's statement of reasons for allowance:

As noted in Remarks (pages 8-13), regarding independent claim 1, Shalor, Tsuboi, Lueh, and other cited prior arts, taken alone or in combination fail to disclose:

“calculating a number of class-type checks at a site in a method that minimizes a cost of inlining; generating inline code for the number of the class-type checks for the site in the method; sorting the inline code based on a frequency of the class types; and generating an out-of-line function call for any remaining class-type checks at the site that exceed the number and that are not handled by the inline code.”

Moreover, evidence for modifying the prior art teachings by one of ordinary skill level in the art was not uncovered so as to result in the invention.

Such limitations are similarly recited in all independent claims, claims 6, 11, and 16. Thus all remaining dependent claims, claims 3-5, 8, 9, 12-15, and 17-21, are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

An update search found a related patent:

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USPN 6,149,318 to Chase et al.

Link time and run time error checking by instrumenting code. However, Chase was silent regarding the placement of the instrumented code, inlined or out-of-lined, depending on a determined frequency cost.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Steelman, whose telephone number is (571) 272-3704. The examiner can normally be reached Monday through Thursday, from 7:00 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached at (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary Steelman

03/14/2007


